

NEW CONCURRENT RECEIPT LEGISLATION

The following paragraphs explain a recent change in the law which governs payments to military retirees with service-connected disabilities. Prior to passage of this legislation, a retiree had to "waive" a portion of their retired pay in order to receive disability pay from the Department of Veterans Affairs (VA). This new law, referred to as "concurrent receipt", allows retirees receiving disability pay from the VA to continue to receive their military retired pay as well. This change will potentially affect payments to some former spouses under the Uniformed Services Former Spouses' Protection Act (USFSPA). Since the retired pay that military members receive is subject to division under the USFSPA, some former spouses who did not receive payments because the member waived their retired pay to receive disability pay from the VA, will now be eligible to receive payments of a portion of the members' retired pay from DFAS. We are awaiting the implementation of the system changes before we can be sure what effect this law will have on individual cases. The following information will give you some general info on the law and how it will be implemented.

Legislation authorizing concurrent receipt of military retired pay and disability pay from the VA was signed by President Bush November 24, 2003. The legislation takes effect on January 1, 2004 and will allow more than 200,000 disabled military retirees to receive both retired pay and VA Disability compensation. Previously, funds received from the VA were offset by reducing the amount of the military retiree's pay by an amount equal to any disability payment received from the VA.

Public Law 108-136 (Sections 641 and 642 of Public Law) authorizes a 10-year, phased in elimination of the VA disability offset to retired pay. This will affect members with non-disability retirements, without regard to years of service. Those who retired as a result of a service-related disability are also eligible. These members must have at least 20 years of qualifying service. In all cases, the retiree must be rated at least 50 percent disabled by the VA. Today, more than 200,000 military retirees meet the criteria required to receive an increase in their retired pay.

This legislation expands the field of eligibility for Combat-Related Special Compensation to include retirees with 20 years of qualifying service, who have a combined disability rating of less than 60 percent. It expands eligibility for a tax-exempt payment to replace retired pay lost to the concurrent receipt ban and is open to retirees with 20 or more years of service and disabilities tied to combat or combat-related training. Reserve retirees are included; however, people who retired under Temporary Early Retirement Authority are not.

System changes are required to fully implement the legislation and will take several months to complete. DFAS is working with the VA to implement this legislation and issue the payments to all eligible retirees as soon as possible. When full implementation is completed, payments will include monies that are due retroactively to Jan. 1, 2004.

Interested military retirees should watch for updated information on myPay, <https://mypay.dfas.mil>, and on www.dfas.mil.